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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 260

01/20/2015

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The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

01/29/2015

Adoption of Report: Re-referred to the Veterans Affairs Division

02/18/2015

Adoption of Report: Amended and re-referred to the Committee on Public Safety and Crime Prevention Policy and Finance

02/26/2015

Adoption of Report: Placed on the General Register

Read Second Time

05/18/2015

Pursuant to Rule 4.20, returned to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1

A bill for an act

1.2

relating to family law; establishing and modifying the Uniform Deployed

1.3

Parents Custody and Visitation Act; allowing virtual parenting time; amending

1.4

Minnesota Statutes 2014, sections 518.17, subdivision 1; 518.1705, subdivisions

1.5

2, 3, 9; 518.175, subdivisions 1, 5; proposing coding for new law as Minnesota

1.6

Statutes, chapter 518E.

1.7

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8

ARTICLE 1

1.9

GENERAL PROVISIONS

1.10

Section 1. Minnesota Statutes 2014, section 518.17, subdivision 1, is amended to read:

1.11

Subdivision 1. **The best interests of the child.** (a) "The best interests of the child"

1.12

means all relevant factors to be considered and evaluated by the court including:

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(1) the wishes of the child's parent or parents as to custody;

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(2) the reasonable preference of the child, if the court deems the child to be of

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sufficient age to express preference;

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(3) the child's primary caretaker;

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(4) the intimacy of the relationship between each parent and the child;

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(5) the interaction and interrelationship of the child with a parent or parents, siblings,

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and any other person who may significantly affect the child's best interests;

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(6) the child's adjustment to home, school, and community;

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(7) the length of time the child has lived in a stable, satisfactory environment and

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the desirability of maintaining continuity;

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(8) the permanence, as a family unit, of the existing or proposed custodial home;

(9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;

(10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion or creed, if any;

(11) the child's cultural background;

(12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent; and

(13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child.

The court may not use one factor to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

(c) In a proceeding involving the custodial responsibility of a service member's child, a court may not consider only a parent's past deployment or possible future deployment in determining the best interest of the child. For purposes of this paragraph, "custodial responsibility" has the meaning given in section 518E.102, paragraph (f).

Sec. 2. **[518E.101] SHORT TITLE.**

This chapter may be cited as the Uniform Deployed Parents Custody and Visitation Act.

Sec. 3. **[518E.102] DEFINITIONS.**

(a) The definitions in this section apply to this chapter.

(b) "Adult" means an individual who has attained 18 years of age or an emancipated minor.

(c) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis. The term includes physical custody, parenting time, right to access, and visitation.

(d) "Child" means:

(1) an unemancipated individual who has not attained 18 years of age; or

(2) an adult son or daughter by birth or adoption, or under law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

(e) "Court" means a tribunal, including an administrative agency, authorized under law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

(f) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.

(g) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(h) "Deploying parent" means a service member, who is deployed or has been notified of impending deployment and is:

(1) a parent of a child under law of this state other than this chapter; or

(2) an individual who has custodial responsibility for a child under law of this state other than this chapter.

(i) "Deployment" means the movement or mobilization of a service member for more than 90 days but less than 18 months pursuant to uniformed service orders that:

(1) are designated as unaccompanied;

(2) do not authorize dependent travel; or

(3) otherwise do not permit the movement of family members to the location to which the service member is deployed.

(j) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child or an individual recognized to be in a familial relationship with a child under law of this state other than this chapter.

(k) "Limited contact" means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.

(l) "Nonparent" means an individual other than a deploying parent or other parent.

(m) "Other parent" means an individual who, in common with a deploying parent, is:
(1) a parent of a child under law of this state other than this chapter; or
(2) an individual who has custodial responsibility for a child under law of this state
other than this chapter.

(n) "Record" means information that is inscribed on a tangible medium or that is
stored in an electronic or other medium and is retrievable in perceivable form.

(o) "Return from deployment" means the conclusion of service of the deploying
parent:

(1) as specified in the deploying parent's service orders;
(2) as specified in the deploying parent's command service orders; or
(3) as specified in a letter to the deploying parent from the deploying parent's
command, on command letterhead, stating that the deploying parent has concluded service.

(p) "Service member" means a member of a uniformed service.

(q) "Sign" means, with present intent to authenticate or adopt a record:
(1) to execute or adopt a tangible symbol; or
(2) to attach to or logically associate with the record an electronic symbol, sound,
or process.

(r) "State" means a state of the United States, the District of Columbia, Puerto
Rico, the United States Virgin Islands, or any territory or insular possession subject to the
jurisdiction of the United States.

(s) "Uniformed service" means:
(1) active and reserve components of the Army, Navy, Air Force, Marine Corps, or
Coast Guard of the United States;
(2) the United States Merchant Marine;
(3) the commissioned corps of the United States Public Health Service;
(4) the commissioned corps of the National Oceanic and Atmospheric Administration
of the United States; or
(5) the National Guard of a state.
(t) "Virtual parenting time" has the meaning given in section 518.1705, subdivision
2, paragraph (d).

Sec. 4. **[518E.103] REMEDIES FOR NONCOMPLIANCE.**

In addition to other remedies under law of this state other than this chapter, if a court
finds that a party to a proceeding under this chapter has acted in bad faith or intentionally
failed to comply with this chapter or a court order issued under this chapter, the court may
assess reasonable attorney fees and costs against the party and order other appropriate relief.

5.1 Sec. 5. **[518E.104] JURISDICTION.**

5.2 (a) A court may issue an order regarding custodial responsibility under this chapter
5.3 only if the court has jurisdiction under chapter 518D.

5.4 (b) If a court has issued an order regarding custodial responsibility pursuant to
5.5 sections 518E.301 to 518E.311, the residence of the deploying parent is not changed by
5.6 reason of the deployment for the purposes of chapter 518D during the deployment.

5.7 (c) If a court has issued a permanent order regarding custodial responsibility before
5.8 notice of deployment and the parents modify that order temporarily by agreement pursuant
5.9 to sections 518E.201 to 518E.205, the residence of the deploying parent is not changed by
5.10 reason of the deployment for the purposes of chapter 518D.

5.11 (d) If a court in another state has issued an order regarding custodial responsibility
5.12 as a result of impending or current deployment, the residence of the deploying parent is
5.13 not changed by reason of the deployment for the purposes of chapter 518D.

5.14 (e) This section does not prevent a court from exercising temporary emergency
5.15 jurisdiction under chapter 518D.

5.16 Sec. 6. **[518E.105] NOTIFICATION REQUIRED OF DEPLOYING PARENT.**

5.17 (a) Except as otherwise provided in paragraph (d) and subject to paragraph (c), a
5.18 deploying parent shall notify in a record the other parent of a pending deployment not
5.19 later than seven days after receiving notice of deployment unless reasonably prevented
5.20 from doing so by the circumstances of service. If the circumstances of service prevent
5.21 giving notification within the seven days, the deploying parent shall give the notification
5.22 as soon as reasonably possible.

5.23 (b) Except as otherwise provided in paragraph (d) and subject to paragraph (c), each
5.24 parent shall provide in a record the other parent with a plan for fulfilling that parent's share
5.25 of custodial responsibility during deployment. Each parent shall provide the plan as soon
5.26 as reasonably possible after notification of deployment is given under paragraph (a).

5.27 (c) If a court order currently in effect prohibits disclosure of the address or contact
5.28 information of the other parent, notification of deployment under paragraph (a), or
5.29 notification of a plan for custodial responsibility during deployment under paragraph (b),
5.30 may be made only to the issuing court. If the address of the other parent is available to the
5.31 issuing court, the court shall forward the notification to the other parent. The court shall
5.32 keep confidential the address or contact information of the other parent.

5.33 (d) Notification in a record under paragraph (a) or (b) is not required if the parents are
5.34 living in the same residence and both parents have actual notice of the deployment or plan.

(e) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

Sec. 7. **[518E.106] DUTY TO NOTIFY OF CHANGE OF ADDRESS.**

(a) Except as otherwise provided in paragraph (b), an individual to whom custodial responsibility has been granted during deployment pursuant to sections 518E.201 to 518E.205 or sections 518E.301 to 518E.311 shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide the notice to any court that has issued a custody or child support order concerning the child which is in effect.

(b) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under paragraph (a) may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

ARTICLE 2

**AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY
DURING DEPLOYMENT**

Section 1. **[518E.201] FORM OF AGREEMENT.**

(a) The parents of a child may enter into an agreement under sections 518E.201 to 518E.205 granting custodial responsibility during deployment.

(b) An agreement under paragraph (a) must be:

(1) in writing; and

(2) signed by both parents and any nonparent to whom custodial responsibility is granted.

(c) Subject to paragraph (d), an agreement under paragraph (a), if feasible, must:

(1) identify the destination, duration, and conditions of the deployment that is the basis for the agreement;

(2) specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(3) specify any decision-making authority that accompanies a grant of caretaking authority;

(4) specify any grant of limited contact to a nonparent;

(5) if under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(6) specify the frequency, duration, and means, including virtual parenting time or other electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(7) specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(8) acknowledge that any party's child support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

(9) provide that the agreement will terminate according to the procedures under sections 518E.401 to 518E.404 after the deploying parent returns from deployment; and

(10) if the agreement must be filed pursuant to section 518E.205, specify which parent is required to file the agreement.

(d) The omission of any of the items specified in paragraph (c) does not invalidate an agreement under this section.

Sec. 2. [518E.202] NATURE OF AUTHORITY CREATED BY AGREEMENT.

(a) An agreement under sections 518E.201 to 518E.205 terminates pursuant to sections 518E.401 to 518E.404 after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under section 518E.203. The agreement does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(b) A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under sections 518E.201 to 518E.205 has standing to enforce the agreement until it has been terminated by court order, by modification under section 518E.203, or under sections 518E.401 to 518E.404.

Sec. 3. [518E.203] MODIFICATION OF AGREEMENT.

(a) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to sections 518E.201 to 518E.205.

(b) If an agreement is modified under paragraph (a) before deployment of a deploying parent, the modification must be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(c) If an agreement is modified under paragraph (a) during deployment of a deploying parent, the modification must be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

Sec. 4. **[518E.204] POWER OF ATTORNEY.**

A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under law of this state other than this chapter, or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

Sec. 5. **[518E.205] FILING AGREEMENT OR POWER OF ATTORNEY WITH COURT.**

An agreement or power of attorney under sections 518E.201 to 518E.205 must be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support must be provided to the court with the agreement or power.

ARTICLE 3

JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT

Section 1. **[518E.301] DEFINITION.**

In sections 518E.301 to 518E.311, "close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

Sec. 2. **[518E.302] PROCEEDING FOR CUSTODY ORDER.**

(a) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue an order granting custodial responsibility unless prohibited by the Servicemembers Civil Relief Act, United States Code, title 50, appendix sections 521 and 522. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(b) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion must be filed in a pending proceeding for custodial responsibility in a court with

9.1 jurisdiction under section 518E.104 or, if there is no pending proceeding in a court with
9.2 jurisdiction under section 518E.104, in a new action for granting custodial responsibility
9.3 during deployment.

9.4 Sec. 3. **[518E.303] EXPEDITED EVIDENTIARY HEARING.**

9.5 If a motion to grant custodial responsibility is filed under section 518E.302,
9.6 paragraph (b), before a deploying parent deploys, the court shall conduct an expedited
9.7 evidentiary hearing within 30 days of filing the motion. In determining whether to grant
9.8 custodial responsibility, the court shall consider the best interests of the child as prescribed
9.9 in section 518.17. The court shall issue an order on the motion not later than 30 days from
9.10 the date of the expedited evidentiary hearing.

9.11 Sec. 4. **[518E.304] TESTIMONY BY ELECTRONIC MEANS.**

9.12 In a proceeding under sections 518E.301 to 518E.311, a party or witness who is not
9.13 reasonably available to appear personally may appear, provide testimony, and present
9.14 evidence by electronic means unless the court finds good cause to require a personal
9.15 appearance.

9.16 Sec. 5. **[518E.305] EFFECT OF PRIOR JUDICIAL ORDER OR AGREEMENT.**

9.17 In a proceeding for a grant of custodial responsibility pursuant to sections 518E.301
9.18 to 518E.311, the following rules apply:

9.19 (1) a prior judicial order designating custodial responsibility in the event of
9.20 deployment is binding on the court unless the circumstances meet the requirements of
9.21 law of this state other than this chapter for modifying a judicial order regarding custodial
9.22 responsibility; and

9.23 (2) the court shall enforce a prior written agreement between the parents for
9.24 designating custodial responsibility in the event of deployment, including an agreement
9.25 executed under sections 518E.201 to 518E.205, unless the court finds that the agreement
9.26 is contrary to the best interest of the child.

9.27 Sec. 6. **[518E.306] GRANT OF CARETAKING OR DECISION-MAKING**
9.28 **AUTHORITY TO NONPARENT.**

9.29 (a) On motion of a deploying parent and in accordance with law of this state other
9.30 than this chapter, if it is in the best interest of the child, a court may grant caretaking
9.31 authority to a nonparent who is an adult family member of the child or to another adult.

The individual who is granted caretaking authority must have a close and substantial relationship with the child.

(b) Unless a grant of caretaking authority to a nonparent under paragraph (a) is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(1) the amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(2) in the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(c) A court may grant part of a deploying parent's decision-making authority to a nonparent who is an adult family member of the child or another adult only if granting part of the deploying parent's decision-making authority is in the best interests of the child and the deploying parent is unable to exercise that authority. The individual who is granted decision-making authority must have a close and substantial relationship with the child. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

Sec. 7. [518E.307] GRANT OF LIMITED CONTACT.

On motion of a deploying parent, and in accordance with law of this state other than this chapter, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

Sec. 8. [518E.308] NATURE OF AUTHORITY CREATED BY CUSTODY ORDER.

(a) A grant of authority under sections 518E.301 to 518E.311 terminates under sections 518E.401 to 518E.404 after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

(b) A nonparent granted caretaking authority, decision-making authority, or limited contact under sections 518E.301 to 518E.311 has standing to enforce the grant until it is terminated by court order or under sections 518E.401 to 518E.404.

Sec. 9. [518E.309] CONTENT OF CUSTODY ORDER.

11.1 (a) An order granting custodial responsibility under sections 518E.301 to 518E.311

11.2 must:

11.3 (1) designate the order as being of limited duration;

11.4 (2) identify to the extent feasible the destination, duration, and conditions of the
11.5 deployment;

11.6 (3) identify and address any issues of domestic abuse as prescribed in section 518.17,
11.7 subdivision 1, clause (12); and

11.8 (4) appoint a parenting time expeditor in accordance with section 518.1751,
11.9 subdivision 2.

11.10 (b) If applicable, an order for custodial responsibility under sections 518E.301
11.11 to 518E.311 must:

11.12 (1) specify the allocation of caretaking authority, decision-making authority, or
11.13 limited contact among the deploying parent, the other parent, and any nonparent;

11.14 (2) if the order divides caretaking or decision-making authority between individuals,
11.15 or grants caretaking authority to one individual and limited contact to another, provide a
11.16 process to resolve any dispute that may arise;

11.17 (3) provide for liberal communication between the deploying parent and the child
11.18 during deployment, including through virtual parenting time or other electronic means,
11.19 unless contrary to the best interest of the child, and allocate any costs of communications;

11.20 (4) provide for liberal contact between the deploying parent and the child during
11.21 the time the deploying parent is on leave or otherwise available, unless contrary to the
11.22 best interest of the child;

11.23 (5) provide for reasonable contact between the deploying parent and the child after
11.24 return from deployment until the order is terminated, even if the time of contact exceeds
11.25 the time the deploying parent spent with the child before entry of the order; and

11.26 (6) provide that the order will terminate pursuant to sections 518E.401 to 518E.404
11.27 after the deploying parent returns from deployment.

11.28 **Sec. 10. [518E.310] ORDER FOR CHILD SUPPORT.**

11.29 If a court has issued an order granting caretaking authority under sections 518E.301 to
11.30 518E.311, or an agreement granting caretaking authority has been executed under sections
11.31 518E.201 to 518E.205, the court may enter a temporary order for child support consistent
11.32 with law of this state other than this chapter if the court has jurisdiction under chapter 518C.

11.33 **Sec. 11. [518E.311] MODIFYING OR TERMINATING GRANT OF**
11.34 **CUSTODIAL RESPONSIBILITY TO NONPARENT.**

(a) Except for an order under section 518E.305, except as otherwise provided in paragraph (b), and consistent with the Servicemembers Civil Relief Act, United States Code, title 50, appendix sections 521 and 522, on motion of a deploying or other parent or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with sections 518E.301 to 518E.311 and it is in the best interest of the child. A modification terminates pursuant to sections 518E.401 to 518E.404 after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(b) On motion of a deploying parent, the court shall terminate a grant of limited contact.

Sec. 12. **[518E.312] MOTIONS FOR AMENDED FINDINGS AND ORDER.**

A party who disagrees with an order issued under this chapter may bring a motion for amended findings and order before the district court within the time limits set forth under Minnesota Rules of Civil Procedure.

ARTICLE 4

RETURN FROM DEPLOYMENT

Section 1. **[518E.401] PROCEDURE FOR TERMINATING GRANT OF CUSTODIAL RESPONSIBILITY ESTABLISHED BY AGREEMENT.**

(a) At any time after return from deployment, an agreement granting custodial responsibility under sections 518E.201 to 518E.205 may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(b) An agreement under sections 518E.201 to 518E.205 granting custodial responsibility terminates:

(1) if an agreement to terminate under paragraph (a) specifies a date for termination, on that date; or

(2) if the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(c) In the absence of an agreement under paragraph (a) to terminate, an agreement granting custodial responsibility terminates under sections 518E.201 to 518E.205 60 days after the deploying parent gives notice, pursuant to section 518E.4011, to the other parent that the deploying parent returned from deployment.

(d) If an agreement granting custodial responsibility was filed with a court pursuant to section 518E.205, an agreement to terminate the agreement also must be filed with that

13.1 court within a reasonable time after the signing of the agreement. The case number and
13.2 heading of the case concerning custodial responsibility or child support must be provided
13.3 to the court with the agreement to terminate.

13.4 Sec. 2. **[518E.4011] RETURN FROM DEPLOYMENT; NOTIFICATION**
13.5 **REQUIREMENT.**

13.6 (a) When a deploying parent returns from deployment and a custodial responsibility
13.7 order concerning the deploying parent's child has been previously issued by the court, the
13.8 deploying parent or the appropriate commanding officer must provide notice in a record
13.9 regarding the return of a deploying parent from deployment as provided in this section.

13.10 (b) The notice must be given not later than seven days after the deploying parent or the
13.11 appropriate commanding officer receives the deploying parent's conclusion of service order
13.12 or a letter from the deploying parent's command, on command letterhead, stating that the
13.13 deploying parent has concluded service, unless the deploying parent and the commanding
13.14 officer are reasonably prevented from doing so by the circumstances of the return from
13.15 deployment. If the circumstances of the return from deployment prevent giving notification
13.16 within seven days of receiving the deploying parent's conclusion of service order or a letter
13.17 from the deploying parent's command, on command letterhead, stating that the deploying
13.18 parent has concluded service, the deploying parent or the appropriate commanding officer
13.19 must give the notification of return from deployment as soon as reasonably possible.

13.20 (c) The notice of return from deployment must include the following:

13.21 (1) the names of both parents;

13.22 (2) the names of each child of the parents;

13.23 (3) the case number and the heading of the case concerning the custodial
13.24 responsibility or child support of the child;

13.25 (4) the IV-D number, if public assistance is involved; and

13.26 (5) the date of the deployed parent's return from deployment.

13.27 (d) The notice of return from deployment must be accompanied by the following:

13.28 (1) the conclusion of the deploying parent's service in that parent's service orders;

13.29 (2) the conclusion of the deploying parent's service as specified in that parent's
13.30 command service orders; or

13.31 (3) a letter from the deploying parent's command, on command letterhead, stating
13.32 that the deploying parent has concluded service.

13.33 (e) The notice of return from deployment must be filed with the court and served
13.34 by mail upon:

13.35 (1) the other parent of the child;

- 14.1 (2) a nonparent who was granted custodial responsibility; and
14.2 (3) the county attorney, if public assistance is involved.
14.3 (f) If a court order currently in effect prohibits disclosure of the address or contact
14.4 information of the other parent, notification of return from deployment under this section
14.5 may be made only to the issuing court. If the address of the other parent is available to the
14.6 issuing court, the court shall forward the notification to the other parent. The court shall
14.7 keep confidential the address or contact information of the other parent.
14.8 (g) Notification in a record under this section is not required if the parents are living
14.9 in the same residence immediately after the return from deployment and both parents have
14.10 actual notice of the return from deployment.

14.11 Sec. 3. **[518E.402] CONSENT PROCEDURE FOR TERMINATING GRANT OF**
14.12 **CUSTODIAL RESPONSIBILITY ESTABLISHED BY COURT ORDER.**

14.13 At any time after a deploying parent returns from deployment, the deploying parent
14.14 and the other parent may file with the court an agreement to terminate an order for
14.15 custodial responsibility issued under sections 518E.301 to 518E.311. After an agreement
14.16 has been filed, the court shall issue an order terminating the order effective on the date
14.17 specified in the agreement. If a date is not specified, the order is effective immediately.

14.18 Sec. 4. **[518E.403] VISITATION BEFORE TERMINATION OF GRANT OF**
14.19 **CUSTODIAL RESPONSIBILITY.**

14.20 After a deploying parent returns from deployment until an agreement or order for
14.21 custodial responsibility established under sections 518E.201 to 518E.205 or 518E.301
14.22 to 518E.311 is terminated, the court shall issue an order granting the deploying parent
14.23 reasonable contact with the child unless it is contrary to the best interest of the child,
14.24 even if the time of contact exceeds the time the deploying parent spent with the child
14.25 before deployment.

14.26 Sec. 5. **[518E.404] TERMINATION BY OPERATION OF LAW OF GRANT OF**
14.27 **CUSTODIAL RESPONSIBILITY ESTABLISHED BY COURT ORDER.**

14.28 (a) If an agreement between the parties to terminate an order for custodial
14.29 responsibility under sections 518E.301 to 518E.311 has not been filed, the order terminates
14.30 60 days after the deploying parent or the appropriate commanding officer gives notice
14.31 as prescribed by section 518E.4011. If notice of return from deployment is not given as
14.32 provided in section 518E.4011, the order for custodial responsibility is terminated by

15.1 operation of law as of the date that the deploying parent's conclusion of service order is
15.2 issued, and the court shall address future custody and related matters accordingly.

15.3 (b) A proceeding seeking to prevent termination of an order for custodial
15.4 responsibility is governed by law of this state other than this chapter.

15.5 **ARTICLE 5**

15.6 **MISCELLANEOUS PROVISIONS**

15.7 Section 1. **[518E.501] UNIFORMITY OF APPLICATION AND**
15.8 **CONSTRUCTION.**

15.9 In applying and construing this chapter, consideration must be given to the need to
15.10 promote uniformity of the law with respect to its subject matter among states that enact it.

15.11 Sec. 2. **[518E.502] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
15.12 **AND NATIONAL COMMERCE ACT.**

15.13 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and
15.14 National Commerce Act, United States Code, title 15, section 7001, et seq., but does not
15.15 modify, limit, or supersede section 101(c) of that act; United States Code, title 15, section
15.16 7001(c); or authorize electronic delivery of any of the notices described in section 103(b)
15.17 of that act, United States Code, title 15, section 7003(b).

15.18 Sec. 3. **[518E.503] SAVINGS CLAUSE.**

15.19 This chapter does not affect the validity of a court order concerning custodial
15.20 responsibility during deployment which was entered before August 1, 2015.

15.21 Sec. 4. **EFFECTIVE DATE.**

15.22 This chapter is effective August 1, 2015.

15.23 **ARTICLE 6**

15.24 **VIRTUAL PARENTING TIME**

15.25 Section 1. Minnesota Statutes 2014, section 518.1705, subdivision 2, is amended to read:

15.26 Subd. 2. **Plan elements.** (a) A parenting plan must include the following:

15.27 (1) a schedule of the time each parent spends with the child;

15.28 (2) a designation of decision-making responsibilities regarding the child; ~~and~~

15.29 (3) a method of dispute resolution; and

16.1 (4) virtual parenting time, if the equipment necessary for virtual parenting time
16.2 is reasonably available.

16.3 (b) A parenting plan may include other issues and matters the parents agree to
16.4 regarding the child.

16.5 (c) Parents voluntarily agreeing to parenting plans may substitute other terms for
16.6 physical and legal custody, including designations of joint or sole custody, provided that
16.7 the terms used in the substitution are defined in the parenting plan.

16.8 (d) For purposes of this subdivision, "virtual parenting time" means reasonable
16.9 and uncensored time during which a parent and the parent's child communicate during
16.10 reasonable hours by using communication tools such as a telephone, electronic mail,
16.11 instant messaging, video conferencing or other wired or wireless technologies via the
16.12 Internet, or other medium of communication. Virtual parenting time may only be used to
16.13 supplement parenting time with the child. Virtual parenting time may not be used as a
16.14 replacement or as a substitute for parenting time with the child.

16.15 Sec. 2. Minnesota Statutes 2014, section 518.1705, subdivision 3, is amended to read:

16.16 Subd. 3. **Creating parenting plan; restrictions on creation; alternative.** (a) Upon
16.17 the request of both parents, a parenting plan must be created in lieu of an order for child
16.18 custody and parenting time unless the court makes detailed findings that the proposed
16.19 plan is not in the best interests of the child.

16.20 (b) If both parents do not agree to a parenting plan, the court may create one on its
16.21 own motion, except that the court must not do so if it finds that a parent has committed
16.22 domestic abuse against a parent or child who is a party to, or subject of, the matter
16.23 before the court. If the court creates a parenting plan on its own motion, it must not use
16.24 alternative terminology unless the terminology is agreed to by the parties.

16.25 (c) If an existing order does not contain a parenting plan, the parents must not be
16.26 required to create a parenting plan as part of a modification order under section 518A.39.

16.27 (d) A parenting plan must not be required during an action under section 256.87.

16.28 (e) If the parents do not agree to a parenting plan and the court does not create one
16.29 on its own motion, orders for custody and parenting time must be entered under sections
16.30 518.17 and 518.175 or section 257.541, as applicable.

16.31 (f) If the parents cannot agree on whether virtual parenting time equipment is
16.32 reasonably available for purposes of subdivision 2, paragraph (a), clause (4), the court
16.33 shall decide whether the equipment is reasonably available, taking into consideration:

16.34 (1) the best interests of the child;

- 17.1 (2) each parent's ability to handle any additional expenses for virtual parenting
17.2 time; and
17.3 (3) any other factors the court considers material.

17.4 Sec. 3. Minnesota Statutes 2014, section 518.1705, subdivision 9, is amended to read:

17.5 Subd. 9. **Modification of parenting plans.** (a) Parents may modify by agreement:

- 17.6 (1) the schedule of the time each parent spends with the child or;
17.7 (2) the decision-making provisions of a parenting plan by agreement; or
17.8 (3) the parenting plan by adding virtual parenting time.

17.9 To be enforceable, modifications must be confirmed by court order. A motion to
17.10 modify decision-making provisions or the time each parent spends with the child may be
17.11 made only within the time limits provided by section 518.18.

17.12 (b) The parties may agree, but the court must not require them, to apply the best
17.13 interests standard in section 257.025 or 518.17, as applicable, for deciding a motion for
17.14 modification that would change the child's primary residence, provided that:

17.15 (1) both parties were represented by counsel when the parenting plan was approved;
17.16 or

17.17 (2) the court found the parties were fully informed, the agreement was voluntary,
17.18 and the parties were aware of its implications.

17.19 (c) If the parties do not agree to apply the best interests standard, section 518.18,
17.20 paragraph (d), applies.

17.21 Sec. 4. Minnesota Statutes 2014, section 518.175, subdivision 1, is amended to read:

17.22 Subdivision 1. **General.** (a) In all proceedings for dissolution or legal separation,
17.23 subsequent to the commencement of the proceeding and continuing thereafter during
17.24 the minority of the child, the court shall, upon the request of either parent, grant such
17.25 parenting time on behalf of the child and a parent as will enable the child and the parent to
17.26 maintain a child to parent relationship that will be in the best interests of the child. The
17.27 court, when issuing a parenting time order, may reserve a determination as to the future
17.28 establishment or expansion of a parent's parenting time. In that event, the best interest
17.29 standard set forth in subdivision 5, paragraph (a), shall be applied to a subsequent motion
17.30 to establish or expand parenting time.

17.31 (b) If the court finds, after a hearing, that parenting time with a parent is likely
17.32 to endanger the child's physical or emotional health or impair the child's emotional
17.33 development, the court shall restrict parenting time with that parent as to time, place,
17.34 duration, or supervision and may deny parenting time entirely, as the circumstances

warrant. The court shall consider the age of the child and the child's relationship with the parent prior to the commencement of the proceeding.

(c) A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of parenting time.

(d) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

(e) Upon request of either party, to the extent practicable an order for parenting time must, unless parenting time is restricted, denied, or reserved, include:

(1) a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations,~~unless parenting time is restricted, denied, or reserved;~~ and

(2) virtual parenting time, as defined in section 518.1705, subdivision 2, paragraph (d), at reasonable hours and for a reasonable duration, if the equipment is reasonably available. If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parenting time is reasonably available, taking into consideration:

(i) the best interests of the child;

(ii) each parent's ability to handle any additional expenses for virtual parenting time; and

(iii) any other factors the court considers material.

(f) The court administrator shall provide a form for a pro se motion regarding parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

(g) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive at least 25 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

Sec. 5. Minnesota Statutes 2014, section 518.175, subdivision 5, is amended to read:

19.1 Subd. 5. **Modification of parenting plan or order for parenting time.** (a) If
19.2 modification would serve the best interests of the child, the court shall modify the
19.3 decision-making provisions of a parenting plan or an order granting or denying parenting
19.4 time, if the modification would not change the child's primary residence. Consideration of
19.5 a child's best interest includes a child's changing developmental needs.

19.6 (b) Except as provided in section 631.52, the court may not restrict parenting time
19.7 unless it finds that:

19.8 (1) parenting time is likely to endanger the child's physical or emotional health or
19.9 impair the child's emotional development; or

19.10 (2) the parent has chronically and unreasonably failed to comply with court-ordered
19.11 parenting time.

19.12 A modification of parenting time which increases a parent's percentage of parenting time
19.13 to an amount that is between 45.1 to 54.9 percent parenting time is not a restriction of
19.14 the other parent's parenting time.

19.15 (c) If a parent makes specific allegations that parenting time by the other parent
19.16 places the parent or child in danger of harm, the court shall hold a hearing at the
19.17 earliest possible time to determine the need to modify the order granting parenting time.
19.18 Consistent with subdivision 1a, the court may require a third party, including the local
19.19 social services agency, to supervise the parenting time or may restrict a parent's parenting
19.20 time if necessary to protect the other parent or child from harm. If there is an existing order
19.21 for protection governing the parties, the court shall consider the use of an independent,
19.22 neutral exchange location for parenting time.

19.23 (d) A parenting time order may be modified to include virtual parenting time, as
19.24 defined in section 518.1705, subdivision 2, paragraph (d). The court shall make this
19.25 determination in accordance with subdivision 1, paragraph (e), clause (2).

APPENDIX
Article locations in H0260-1

ARTICLE 1	GENERAL PROVISIONS	Page.Ln 1.8
	AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY	
ARTICLE 2	DURING DEPLOYMENT	Page.Ln 6.16
	JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL	
ARTICLE 3	RESPONSIBILITY DURING DEPLOYMENT	Page.Ln 8.18
ARTICLE 4	RETURN FROM DEPLOYMENT	Page.Ln 12.16
ARTICLE 5	MISCELLANEOUS PROVISIONS	Page.Ln 15.5
ARTICLE 6	VIRTUAL PARENTING TIME	Page.Ln 15.23